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EXAMINER	
NGUYEN, CINDY	
ART UNIT	PAPER NUMBER
2161	
MAIL DATE	DELIVERY MODE
06/21/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/064,477	FANO, ANDREW E.	
	Examiner	Art Unit	
	CINDY NGUYEN	2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *21 May 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-8,10-25,27,29 and 32* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8, 10-25, 27, 29 and 32* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114 was filed in this application after a decision by the Board of Patent Appeals and Interferences, but before the filing of a Notice of Appeal to the Court of Appeals for the Federal Circuit or the commencement of a civil action. Since this application is eligible for continued examination under 37 CFR 1.114 and the fee set forth in 37 CFR 1.17(e) has been timely paid, the appeal has been withdrawn pursuant to 37 CFR 1.114 and prosecution in this application has been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on 05/21/2010 has been entered.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 13, line 9 recites the limitation "the media capture device". It is unclear whether this is intended to be the same as or different from " a media recording device " in line 3.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 29 recited "A computer readable medium". However, "A computer readable medium" is reasonable interpretation to a computer readable medium covers forms of non-transitory tangible media and transitory propagating signals per se and is not limited to tangible embodiments. As such, the claim is not limited to statutory subject matter and is therefore non-statutory. The Examiner suggests amending claim 29 to narrow the claim to cover only statutory embodiments to avoid a reject under 35 USC § 101 by adding the limitation "non-transitory" the claim. (see MPEP 2106).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1- 8, 10-20, 21- 25, 27, 29 and 32 are rejected under 35 U.S.C. 103(a) as Barnes, JR. (US 20030220835) in view of Fuller et al. (US 6833865, hereafter Fuller).

Regarding claims 1 and 27, Barnes discloses: A method and an apparatus for media indexing comprising: recording a subject that is proximate to a media indexing beacon in a media file with a media recording device **(i.e., the device 101 receives the digital signals from a remote receiver through a wireless PAN (short range wireless LAN) for communicating via a Bluetooth network and receive "live" audio/visual...the data received and storing live may be transmitted as captured from live events /a subject proximate to the device 101...see paragraphs 0045; 0047; 0066; and index information such as location data may also be transmitted from a nearby device (e.g., an airplane, a bus an automobile, a ship, event, area, etc) see paragraphs 0097; 100; 0116; 0118, Barnes)**;

Barnes didn't disclose: automatically receiving, by the media recording device, separate from the media file and from the media indexing beacon, index information descriptive of the subject, associating, by the media recording device, the index information with the media file.

Fuller discloses: automatically receiving, by the media recording device, separate from the media file and from the media indexing beacon, index information descriptive of the subject **(i.e., output unit 700, fig. 1 and corresponding text , further metadata/descriptive and image data are managed and stored separately in the storage unit 700, see col. 7, lines 20-24);** and

associating, by the media recording device, the index information with the media file (i.e., the metadata/index information is always associated with the content as the content ...see col. 6, lines 15-20).

Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes . The motivation being to enable generate metadata descriptions that can be affectively used to index the content for downstream application such as search and browser.

Regarding claim 2, all the limitations of this claim have been noted in the rejection of claim 1. In addition, Fuller disclose: wherein the step of associating the index information with the media file further comprises: encoding the index information into the media file **. (i.e., the formatting unit 500 operates on the encoded audio and video by packet zing, tagging and applying time codes/ index information...the corresponding metadata is packetized and time stamped ...see col. 6, lines 3-12).** Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes . The motivation being to enable generate metadata descriptions that can be affectively used to index the content for downstream application such as search and browser.

Regarding claims 3 and 15, all the limitations of these claims have been noted in the rejection of claims 1 and 13. In addition, Fuller discloses: further comprising: providing the media file and the index information to a media file storage device which comprises a plurality of stored media files having index information associated therewith **(i.e., automatically extracting metadata in real-time from the digital media content simultaneously with the compressing of the digital media content and storing the digital media content and the metadata… see col. 4, lines 40-46).**

Regarding claim 4, all the limitations of this claim have been noted in the rejection of claim 3. In addition, Barnes /Fuller discloses: wherein the media file storage device stores the media file and index information, the method further comprising at least one of the following: searching the plurality of stored media files using the index information (see col. 2, lines 58-62, Fuller) and enabling a commercial system with the plurality of stored media files using the index information (i.e., stored audio/visual production …see paragraphs 0066; 0128-0130, Barnes).

Regarding claim 5 , all the limitations of this claim have been noted in the rejection of claim 1. In addition, Fuller discloses: wherein the index information, prior to being associated with the media file, is transmitted from a media indexing beacon (see col. 5, line 35-41). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes . The motivation being to enable generate metadata descriptions that can be

affectively used to index the content for downstream application such as search and browser.

Regarding claim 6, all the limitations of this claim have been noted in the rejection of claim 5. In addition, Barnes discloses: wherein the step of receiving the index information is in response to an index information request (see paragraph 0066, lines 8+, Barnes).

Regarding claim 8, all the limitations of these claims have been noted in the rejection of claim 1. In addition, Barnes/Fuller discloses: a method for media indexing comprising:

storing, in a media indexing beacon external to a media recording device, index information descriptive to a subject that is proximate to the media indexing beacon **(i.e., the device 101 receives the digital signals from a remote receiver through a wireless PAN (short range wireless LAN) for communicating and store the data via a Bluetooth network and receive "live" audio/visual...the data received live may be transmitted as captured from live events /a subject proximate to the device 101...see paragraphs 0045; 0047; 0066; and index information such as location data may also be transmitted from a nearby device (e.g., an airplane, a bus an automobile, a ship, etc) see paragraphs 0097; 100, Barnes)**;

receiving, by the media indexing beacon, an index information request that is generated by the media recording device (see paragraph 0066, lines 8+, Barnes). **; and**

transmitting the index information relating to the subject separately to the media recording device in response to receiving the index information request (i.e., output unit 700, fig. 1 and corresponding text , further metadata/descriptive and image data are managed and stored separately in the storage unit 700, see col. 7, lines 20-24).

Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes . The motivation being to enable generate metadata descriptions that can be affectively used to index the content for downstream application such as search and browser.

Regarding claim 10, all the limitations of this claim have been noted in the rejection of claim 8. In addition, Fuller discloses: wherein the media recording device receives the index information and associates the index information with a media file (see col. 5, lines 45-55, Fuller).

Regarding claim 11, all the limitations of this claim have been noted in the rejection of claim 8. In addition, Barnes discloses: wherein the index information is wirelessly transmitted to the media recording device (see paragraph 0047, Barnes).

As per claim 13, all the limitations of this claim have been noted in the rejection of claims 1 and 5.It is therefore rejected as set forth above.

Regarding claims 7, 12 and 17, all the limitations of these claims have been noted in the rejection of claims 1 and 8 and 13 above, respectively. In addition, Barnes discloses: wherein the index information comprises at least one of the following: a time indicator (see paragraphs 0109, lines 17+), a landmark indicator (see paragraph 03920, an event indicator, a global positioning system indicator (see paragraph 0450), commercial information, a universal resource locator, and a proximity indicator (see paragraph 0096).

Regarding claim 14, all the limitations of this claim have been noted in the rejection of claim 13. In addition, Barnes discloses: prior to providing index information from the media indexing beacon, further comprising

detecting, by a media recording device, a user input to capture the media file (i.e., see paragraphs 0066, lines 2+; 0213; 0373, lines 6, Barnes); and

providing, by a media recording device, an index information request to the media indexing beacon (i.e., see paragraph 0213, lines 4+, Barnes).

As per claim 16, all the limitations of these claims have been noted in the rejection of claims 3, 4 and 15. It is therefore rejected as set forth above.

Regarding claim 18, all the limitations of this claim have been noted in the rejection of claim 17. In addition, Barnes discloses: wherein the index information enables a media file to be utilized by at least one commercial system, wherein the at least one commercial system comprises at least one of the following: a workflow system, a procurement system, a retail sales system, and a safety inspection/auditing system (see paragraphs 0011; 0029, Barnes).

Regarding claim 19, Barnes/Fuller discloses: a media recording and indexing system comprising a media indexing beacon which generate a beacon signal comprising index information descriptive of a subject proximate to the media indexing beacon **(i.e., the device 101 receives the digital signals from a remote receiver through a wireless PAN (short range wireless LAN) for communicating via a Bluetooth network and receive "live" audio/visual...the data received live may be transmitted as captured from live events /a subject proximate to the device 101...see paragraphs 0045; 0047; 0066; and index information such as location data may also be transmitted from a nearby device (e.g., an airplane, a bus an automobile, a ship, etc) see paragraphs 007; 100, Barnes) and**

a media recording device that captures the subject in a media file and separately receives the beacon signal from the beacon and associates the index information with the media file **(i.e., output unit 700, fig. 1 and corresponding text , further metadata/descriptive and image data are managed and stored separately in the storage unit 700, see col. 7, lines 20-24, Fuller).**

Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes . The motivation being to enable generate metadata descriptions that can be affectively used to index the content for downstream application such as search and browser.

Regarding claim 20, all the limitations of this claim have been noted in the rejection of claim 19. In addition, Barnes/Fuller discloses: wherein the media recording device records a plurality of media files each having index information associated therewith **(i.e., automatically extracting metadata in real-time from the digital media content simultaneoulsly with the compressing of the digital media content and storing the digital media content and the metadata… see col. 4, lines 40-46);** the system further comprising: a media file storage device (130, fig. 1) that receives the plurality of media files, wherein the plurality of media files may be indexed on the index information **(i.e., automatically extracting metadata in real-time from the digital media content simultaneoulsly with the compressing of the digital media content and storing the digital media content and the metadata… see col. 4, lines 40-46).**

Regarding claim 21, all the limitations of this claim have been noted in the rejection of claims 11 and 19. in addition, Fuller : wherein the media indexing beacon further comprises: at least one index buffer comprising the index information (frame buffer 205, fig. 4 and corresponding text, Fuller); and a transmitter operable coupled to the at least one index buffer, wherein the transmitter provides the index information to

the media capture device (203, 100 fig. 4 and corresponding text). Thus, at the time invention was made, it would have been obvious to a person of ordinary skill in the art to include the teaching of the Fuller in the system of Barnes. The motivation being to enable generate metadata descriptions and stored temporarily in a frame buffer or quick access and reduce the storage space required by the image .

Regarding claim 22, all the limitations of this claim have been noted in the rejection of claim 21. In addition, Barnes discloses: wherein the media indexing beacon further comprises a receiver that receives an index information request from the media recording, wherein the transmitter transmits the index information in response to the index information request device (see paragraphs 0392, lines 9+; 0422; 0450; 0478, Barnes)

As per claim 23, all the limitations of this claim have been noted in the rejection of claim 19. in addition, Barnes/Fuller discloses: a media input module which generates a media file in response to a media file generation request (see paragraph 0060, lines 5+, Barnes);

A processor (155, fig. 1) operable coupled to the media input module to receive the media file (165, 100, fig. 1 and corresponding text, Barnes); a**nd**

An index information receiver operable coupled to the processor, wherein the index information receiver receives the beacon signal and provides the index information to the processor, wherein the processor associated the index information with the media file device **(i.e., the device 101 receives the digital signals from a**

remote receiver through a wireless PAN (short range wireless LAN) for communicating via a Bluetooth network and receive "live" audio/visual...the data received live may be transmitted as captured from live events /a subject proximate to the device 101...see paragraphs 0045; 0047; 0066; and index information such as location data may also be transmitted from a nearby device (e.g., an airplane, a bus an automobile, a ship, etc) see paragraphs 007; 100, Barnes);

Regarding claim 24, all the limitations of this claim have been noted in the rejection of claim 23. In addition, Barnes/Fuller discloses: wherein the index information receiver further contains a transmitter that transmits an index information request to the media indexing beacon device **(see paragraphs 0045; 0047; 0066; index information such as location data may also be transmitted from a nearby device (e.g., an airplane, a bus an automobile, a ship, etc) see paragraphs 007; 100; 0117; 0283, Barnes);**

As per claims 25 and 29, all the limitations of these claims have been noted in the rejection of claims 1 and 8. It is therefore rejected as set forth above.

Regarding claim 32, all the limitations of this claim have been noted in the rejection of claim 27. In addition, Barnes discloses: wherein the apparatus comprises a

digital camera and wherein the means for receiving index information includes a wireless receiver (i.e., see paragraphs 0066 0122, lines 3+;0349).

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cindy Nguyen whose telephone number is 571-272-4025. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu A. Mofiz can be reached on 571-272-4080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/C. N./

Examiner, Art Unit 2161

/A. Oberley/
Art Unit 2100